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REMARKS

Claims 101-200 are pending in the present Application. Claims 101, 135, 152, 155, 157, 160, 161, 187 and 188 have been amended, Claims 121 and 177 have been canceled, leaving Claims 101 – 120, 122 – 176 and 178 - 200 for consideration upon entry of the present Amendment. No new matter has been introduced by these amendments or new claims. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Amended Claims

Independent Claims 101, 135, 152, 155, 157, 160, 161, 187 and 188 have been amended to incorporate the limitation “wherein the particle comprises 0.005 to 4.0 weight percent of the thermoplastic polymer, based upon weight of the particle.” This amendment has been made to better define the invention. Support for this amendment can be found at least in Claims 121 and 177 as originally filed. No new matter has been introduced by this amendment.

Information Disclosure Statement

Applicants note that the Examiner has not considered the art submitted in the Information Disclosure Statement on May 24, 2005. Applicants respectfully request that the art submitted in this Information Disclosure Statement be considered and a fully initialed PTO Form A820 be returned to the Applicants.

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 101-200 are rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 6,632,527 to McDaniel et al. (hereinafter McDaniel '527) and U.S. Patent No. 6,406,789 to McDaniel et al. (hereinafter McDaniel '789). (Office action dated 10-05-2005, page 2) Applicants respectfully traverse this rejection.

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

The claimed invention as presently amended is directed to a particle comprising a particulate substrate; and a thermoplastic polymer present on or in the substrate in an amount

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sufficient to improve the dust suppression of the particle above that which would occur if the thermoplastic polymer was absent; wherein the particle comprises 0.005 to 4.0 weight percent of the thermoplastic polymer, based upon weight of the particle. (Claim 101)

All the other independent claims, i.e., Claims 135, 152, 155, 157, 160, 161, 187 and 188 as presently amended contain the limitation "wherein the particle comprises 0.005 to 4.0 weight percent of the thermoplastic polymer, based upon weight of the particle.

McDaniel '527 is directed to composite particles made of a binder and filler material. (see Abstract) McDaniel discloses that the binder may be an organic or an inorganic material. (Col. 5, lines 54 – 57) McDaniel '527 teaches that the binder is present in an amount of 10 to 30 wt% of the total dry materials used in the composite particle. (Col. 16, lines 6 – 9)

McDaniel '789 is directed to composite particles made of a resin and a filler material. (see Abstract) McDaniel '789 also discloses that the binder may be an organic or an inorganic material. (Col. 5, lines 24 – 27). Like McDaniel '527, McDaniel '789 also teaches that the binder is present in an amount of 10 to 30 wt% of the total dry materials used in the composite particle. (Col. 13, lines 56 – 58)

The claimed invention, in contrast to McDaniel '527 or McDaniel '789, is directed to a particle that comprises a thermoplastic polymer in an amount effective to provide dust suppression. This amount is between 0.005 and 4 weight percent, based on the weight of the particle. As can be seen from at least Example 3 of the present application (see Table 6), dust suppression is effectively attained in a Ball Mill Test when the thermoplastic polymer is added in amounts of less than 4 wt% of the total weight of the particle. For example, Figure 5 of the present application demonstrates that dust suppression can be effectively attained when the thermoplastic resin is added to the particle in amounts of less than 2.5 wt%. Using thermoplastic resin in an amount of less than or equal to about 4 wt% to achieve dust suppression is neither taught nor disclosed by McDaniel '527 nor McDaniel '789. As noted above, both McDaniel '527 nor McDaniel '789 teach that the binder must be present in amounts of 10 to 30 wt%. For this reason at least, neither McDaniel '527 nor McDaniel '789 can anticipate the claimed invention. Applicants therefore respectfully request a withdrawal of the §102(e) rejection over McDaniel '527 and McDaniel '789 and an allowance of all the claims.

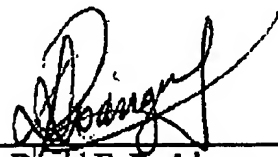
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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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